

EXECUTIVE SUMMARY

STUDY OBJECTIVES AND APPROACH

Many alcohol-impaired drivers go either undetected or unpunished. This report attempts to identify where and how these individuals slip through the cracks in the criminal justice system. It also suggests potential fixes to close those loopholes.

Specific objectives of the project were:

- to describe various ways being used in the United States to enforce laws limiting a driver's blood alcohol concentration (BAC);
- to identify significant problems that occur in DWI (driving while intoxicated) enforcement and the impact of these problems on catching law violators and subjecting them to appropriate sanctions; and
- to suggest changes in DWI enforcement that would prevent or ameliorate these problems.

To do this, we:

- conducted telephone discussions with law enforcement officials in ten jurisdictions to obtain an overview of current DWI enforcement methods and problems;
- visited three jurisdictions and prepared detailed case studies of their DWI enforcement methods and problems; and
- convened an expert panel of individuals with extensive experience in DWI enforcement. The panel provided additional information and helped in analyzing the information.

RESULTS

A total of 28 significant problems in enforcing BAC-limit laws was identified and traced to their most common causes. These problems degrade the ability of the police to find DWI suspects, confirm suspects as DWI, and process suspects more quickly. The problems also degrade the ability of prosecutors to charge and obtain convictions of DWI defendants and the ability of judges to impose appropriate sanctions on persons convicted of DWI.

Some 50 fixes were recommended for consideration by jurisdictions experiencing these problems. Types of fixes recommended were:

- expanded training programs for police officers, prosecutors, judges, and administrative hearing officers;

- new or modified procedures for catching and processing suspected DWIs, adjudicating DWI cases, and sanctioning DWI offenders;
- additional equipment, facilities, and personnel for agencies involved in enforcing BAC laws;
- additional funding to support the operation of these agencies;
- new or modified laws on the conduct of criminal and administrative adjudicative proceedings; and
- focused public information programs to gain public support for the operation of DWI enforcement agencies.

CONCLUSIONS AND RECOMMENDATIONS

We conclude that DWI enforcement in most jurisdictions is functioning at an acceptable, if not optimal, level, and is functioning extremely well in some jurisdictions. Specific conclusions and recommendations flowing from this project are:

Conclusion: The greatest improvement in DWI enforcement in most jurisdictions will be realized by increasing the percentage of patrol officers' time available for looking for and interdicting DWI suspects. However, all involved agencies must be prepared to adapt to the greater demands on their resources (for example, larger case loads) resulting from such increases.

Recommendation: Police command staff should reconsider their policies for allocating personnel and other resources to ensure that sufficient emphasis is being given to DWI enforcement.

Police managers should examine each support function performed by patrol officers to see how arrest and processing time can be reduced.

The possibility of reducing the time spent fulfilling reporting requirements should also be considered. The use of shortened forms and computer technology is one of the most productive ways of increasing officer availability for patrol tasks. Another way of increasing patrol time is to assign support duties during suspect processing to clerical staff or other non-sworn personnel.

Conclusion: The time required to adjudicate driving while intoxicated (DWI) cases is excessive in many jurisdictions, often stretching out for months and, sometimes, for years. This violates a basic tenet of deterrence theory that calls for the timely imposition of punishment for proscribed behavior.

Recommendation: Judicial agencies should examine their procedures to learn where inordinate amounts of time are being spent. Particular attention should be given to the parts of the process that involve pre-trial hearings and continuances. There should be an eye toward restricting the conditions under which the process can be extended in time.

Conclusion: The failure to appear (FTA) by defendants at adjudicative hearings can have a large negative impact on system performance by reducing their availability for determination of guilt and sanctioning if found guilty. The extent of this problem nationwide is not known, but our research suggests that it could be widespread.

Recommendation: Jurisdictions should undertake research to learn the nature and extent of their FTA problem. If the problem is serious, then ways of dealing with it should be devised, including the revocation of the driver license for FTA.

Conclusion: A series of unexpected problems is occurring in the operation of the administrative adjudication components of DWI enforcement. These problems include excessive demands on police officers' time to appear at administrative hearings; procedures that require police officers to file a written request for continuance if unable to appear at a hearing; laws that prohibit a prosecutor from appearing at a hearing, placing the police officer in the role of prosecutor; hearing officers allowing non pertinent issues to be addressed at the hearing; and hearing officers' lack of knowledge of the law, alcohol impairment of driving performance, techniques for determining impairment, or some combination of these. These problems are causing the process to be avoided by police officers in some jurisdictions. Thus, the intended administrative sanctions are avoided by violators.

Recommendation: The requirement for police officers to appear at administrative hearings, scheduling of officers at hearings, qualifications of hearing officers, and pertinent issues that may be addressed at hearings should be examined.

Conclusion: Judges need more information on offender characteristics and sanctioning alternatives to develop effective sentencing packages.

Recommendation: Judges should be provided information on offender characteristics and sanctioning alternatives for use in sentencing. Sentencing guidelines for violations of laws regarding alcohol-related driving should also be provided. Research findings on the effectiveness of sanctions for DWI need to be disseminated to judges in an easy-to-use format.

Conclusion: Public support for DWI enforcement is critical to maintaining an acceptable level of performance.

Recommendation: Communities should develop and carry out public information programs on the nature and extent of the alcohol-crash problem locally, and on resources and legislation needed for enforcing BAC laws.

Conclusion: The introduction of laws limiting the BAC of various categories of drivers may not be having any serious impact on DWI enforcement. Specifically, laws setting the BAC limit at 0.08 has had little affect on the functioning of agencies involved in DWI enforcement. In states having so-called “zero-tolerance” laws for underage drivers, insufficient information existed during this project to determine whether these laws are creating difficulties or are not achieving their intended results. However, limited data suggest that there are problems in processing juveniles suspected of violating zero-tolerance laws, particularly in transporting and holding such suspects.

Recommendation: More research on the nature, provisions, and impact of zero tolerance laws should be conducted. NHTSA is now examining zero-tolerance laws and their application for youth. This should help fill this gap.